

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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LAUREN CALVERT,
Plaintiff,
v.
MICHAEL WAYNE ELLIS, *et al.*,
Defendants.

Case No. 2:13-cv-00464-APG-NJK

**ORDER GRANTING IN PART AND
DENYING PLAINTIFF'S MOTION IN
LIMINE No. 13 TO EXCLUDE
IRRELEVANT AND/OR UNDULY
PREJUDICIAL INFORMATION AND
PHOTOGRAPHS**

(Dkt. #199)

Plaintiff Lauren Calvert moves to exclude from trial photographs from her Facebook account, the fact that she was terminated from the Lionel Sawyer law firm, a legal dispute with a credit card company, and evidence of domestic violence. The defendants do not respond to the credit card issue, but they contend the other evidence is relevant and should not be excluded.

1. Facebook photos

Calvert seeks to exclude "risqué" photographs from her Facebook account. It is unclear what specific photographs Calvert seeks to exclude. I therefore cannot make a pre-trial determination. Calvert will have to object to particular photos at trial. To the extent Calvert contends none of the photographs on her Facebook account is relevant, I deny the motion. The defendants contend some of the photos show Calvert engaging in physical activity that would contradict her reported physical injuries and limitations. Those types of photos would be relevant and not unfairly prejudicial. Fed. R. Evid. 401, 403.

2. Lionel Sawyer Termination

Calvert seeks to exclude information that she was terminated from the Lionel Sawyer law firm. Calvert testified at deposition that her termination may have been a result of one of her driving under the influence charges. She argues that because she is not making a claim for loss of earning capacity, it is irrelevant that she was fired from a law firm. The defendants respond that

1 this evidence goes to her alcohol dependency, which is relevant to her life expectancy. The
2 defendants also argue the evidence is relevant to any claim Calvert has that she is unable to
3 perform her job as an attorney as a result of the accident.

4 I will exclude this evidence as irrelevant, subject to Calvert opening the door with any
5 testimony or argument that she is incapable of performing her job as an attorney as a result of the
6 accident. The fact that Calvert was terminated from Lionel Sawyer and that she speculated it was
7 because of a drunk driving incident is of minimal relevance to her life expectancy, particularly
8 considering other evidence of her alcohol dependence issues.

9 3. Credit Card Company

10 Calvert seeks to exclude a legal dispute she had with her credit card company. The
11 defendants do not respond to this portion of the motion, so I will grant it.

12 4. Domestic violence

13 Finally, Calvert seeks to exclude reference to a domestic violence incident. The
14 defendants respond that Calvert does not identify what particular incident she is seeking to
15 exclude but they are aware of one incident reported as a domestic dispute and another incident
16 that gave rise to the hospital inquiring whether Calvert had been physically assaulted. The
17 defendants argue that evidence of Calvert's prior falls and other physical injuries is relevant and
18 evidence of domestic violence as it relates to those incidents is also relevant.

19 As to the incident of falling down the stairs, it may be relevant that she fell down the stairs
20 because her history of falls may be relevant. (Dkt. #255.) However, the defendants do not explain
21 why it is relevant that Calvert reported that one of her fall was the result of a domestic violence,
22 particularly where the police later concluded that it was not a domestic violence incident and
23 where there the parties have not identified any other evidence of domestic violence having caused
24 Calvert's injuries. I therefore will exclude reference to the fall being the result of an alleged
25 domestic violence incident.

26 As for the other incident, it may be relevant that treatment providers questioned her about
27 whether she had been physically assaulted because she had a significant number of bruises on her
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1 body after falling multiple times, which may suggest the severity of the injuries Calvert suffered
2 from other falls. (*Id.*) To the extent Calvert's motion is directed at other evidence, she will have
3 to object at trial because it is unclear from her motion what other evidence she seeks to exclude.

4 IT IS THEREFORE ORDERED that the plaintiff's motion in limine no. 13 to exclude
5 irrelevant and/or unduly prejudicial information and photographs (**Dkt. #199**) is **GRANTED in**
6 **part and DENIED in part.**

7 DATED this 20th day of January, 2016.

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10 ANDREW P. GORDON
11 UNITED STATES DISTRICT JUDGE
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